

Federal Communications Commission

FCC 98-75

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of the Commission's Rules
Concerning the Inspection of Radio
Installations on Large Cargo and Small
Passenger Ships

CI Docket No. 95-55

DISPATCHED
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FCC MAIL SECTION

REPORT AND ORDER

Adopted: April 20, 1998

Released: May 1, 1998

By the Commission:

I. INTRODUCTION

1. By a *Notice of Proposed Rule Making (Notice)*¹ adopted April 25, 1996, we proposed rules to permit the Commission to use FCC-licensed technicians in private sector organizations to inspect all U.S. ships required by statute or treaty to be inspected for compliance with the Communications Act of 1934, as amended, (Communications Act) and the International Convention for the Safety of Life at Sea, 1974 (Safety Convention).² We noted that the Communications Act had been amended and now permits the Commission to authorize private sector organizations to inspect ships.³ In the *Notice*, we requested specific comments that would permit us to streamline ship inspection procedures for the maritime services, remove unnecessary rules, improve service to the maritime community, and, above all else, preserve maritime safety. We specifically asked for comments regarding the use of private sector organizations to inspect U. S. ships.

II. EXECUTIVE SUMMARY

2. This proceeding was initiated to incorporate changes to the Communications Act related to the inspection of ships, to privatize the Commission's ship inspection process, to reduce administrative burdens on the public and the Commission, and to ensure that vessel safety is not adversely affected by such a change. Currently, the Commission inspects the radio installations of approximately 1,100 vessels

¹ *Notice of Proposed Rule Making (Notice)*, CI Docket No. 95-55, 11 FCC Rod 17165 (1996).

² Regulation 7 and 9 of the Safety Convention, 32 U.S.T. 47, T.I.A.S. 9700, and Sections 362 and 385 of the Communications Act, Pub. L. No. 104-104, codified at 47 U.S.C. §§ 360, 385 (1996).

³ *Notice*, *supra* note 1, at ¶ 1.

each year.⁴ The changes we are adopting will replace the requirement that the Commission inspect such ships with a requirement that ship owners or operators arrange for an inspection by an FCC-licensed technician. We are adopting provisions suggested by the United States Coast Guard to ensure that maritime safety is not derogated. This change will result in the following benefits:

- Privatization will increase the number of experienced entities available to inspect the radio stations of ships.
- Privatization will permit ship owners and operators to arrange for inspections at any time or place.
- Privatization should not adversely affect safety. We are incorporating provisions suggested by commenters that will require the use of a standardized inspection check list and are maintaining oversight of the inspection process as suggested by the U. S. Coast Guard.
- It will also decrease administrative burdens on the Commission by shifting the responsibility to arrange ship inspections from the Commission to ship owners or operators.

II. BACKGROUND

3. Commission inspectors currently conduct inspections of a ship's required radio equipment to ensure compliance with the Communications Act or the Safety Convention. The radio installations inspected range from simple VHF marine transmitters to manual Morse code radiotelegraph equipment whose technology has not changed in the past 50 years. Increasingly, the inspections include highly automated communications systems that use data communications or complex satellite transmitting and receiving equipment. Applicants for an inspection of a ship radio station subject to Part II or III of Title III of the Communications Act or the Safety Convention are required to provide an FCC-licensed radio operator to operate the ship's radio equipment during the inspection.⁵ Additionally, it is Commission policy that an FCC-licensed technician should attend the inspection of cargo vessels to effectuate rapid repairs of malfunctioning equipment.

4. The Commission's inspectors are primarily responsible for ensuring that the radio installation provides safety communications capability at the time of inspection. During the inspection, all repairs and maintenance, including the testing of the radio equipment, are done by the privately

⁴ The Commission inspects approximately 580 large cargo ships and small passenger vessels subject to the radio carriage requirements of the Communications Act or the Safety Convention and approximately 630 small passenger vessels that are subject only to the Communications Act each year. The Commission inspects all U. S. ships that request an inspection. Because of the prior requirement in Sections 362 and 385 of the Communications Act that inspections had to be conducted by the Commission, the Commission's Compliance and Information Bureau (CIB) has hired part-time ship inspectors in remote areas such as Guam or has traveled great distances to inspect radio stations on U. S. ships. CIB estimates the total annual personnel required to inspect these ships to be 15.5 full-time employees and the travel costs to be \$50,000 a year.

⁵ See Section 80.159 of the Commission's Rules, 47 C.F.R. § 80.159.

employed FCC-licensed technicians who accompany the FCC inspectors. At all other times, it is the ship operator's responsibility to ensure that the vessel is capable of providing safety communications.⁶

III. DISCUSSION

5. This Report and Order is the third step in the Commission's efforts to improve the manner in which the Commission conducts inspections of ship radio stations. The first step was initiated when the Commission adopted a *Notice of Inquiry* and a *Notice of Proposed Rule Making* during its reorganization of the Compliance and Information Bureau.⁷ The *Notice of Inquiry* requested suggestions on how the Commission could streamline and improve the ship inspection process for ships subject to the Communications Act or the Safety Convention and how it could begin preparing for the Global Maritime Distress and Safety System (GMDSS).⁸ The Commission took the second step when it adopted rules that require the use of FCC-licensed technicians to conduct inspections of ships subject to the Great Lakes Agreement⁹ and proposed in the *Notice* in this proceeding that, in lieu of Commission inspectors, FCC-licensed technicians be required to inspect large cargo ships and small passenger ships subject to the Communications Act and the Safety Convention.¹⁰

6. *Safety.* When we began this proceeding we noted that the Commission's primary objective is ensuring safety of life and property at sea.¹¹ We also noted that the Commission was faced

⁶ See generally, Section 351 of the Communications Act, 47 U.S.C. § 351, and Regulation 11, Chapter I of the Safety Convention.

⁷ *Notice of Proposed Rule Making (Notice)*, CI Docket No. 95-54, 10 FCC Rcd 5418 (1995) and *Notice of Inquiry*, CI Docket No. 95-55, 10 FCC Rcd 5424 (1995).

⁸ The GMDSS, the result of over 10 years work by the world's maritime nations, is an automated ship-to-shore distress alerting system that relies on satellite and advanced digital terrestrial systems.

⁹ *Report and Order*, CI Docket 95-54, 11 FCC Rcd 18661 (1996). In the six months since the Rules went into effect that ships subject to the Great Lakes Agreement have to be inspected by the private sector, Commission field offices have provided technical assistance and training to FCC-licensed technicians conducting Great Lakes Agreement inspections. We have received no complaints related to the privatization of Great Lakes Agreement inspections. Further, Commission field staff have inspected approximately 50 Great Lakes Agreement ships and report no violations that adversely affected safety.

¹⁰ See *Notice of Proposed Rulemaking*, CI Docket No. 95-55, 11 FCC Rcd 17165 (1996). The Safety Convention requires that the inspections be carried out by officers of the Contracting Governments or by either persons nominated for that purpose or organizations recognized by the Contracting Government, such as class societies. Thus, the Safety Convention provides specific authority allowing the United States to entrust the annual inspection to either persons or organizations other than the Commission. See Regulation 6(a), Chapter I, Safety Convention.

¹¹ See *Notice of Proposed Rulemaking*, CI Docket No. 95-54, 11 FCC Rcd 17171 at ¶ 12 (1995).

with a mandate to conserve resources and to provide more efficient and better service to our customers.¹² Further, we noted that the 1996 Telecommunications Act did not change the requirement in the Communications Act that U. S. cargo ships and certain passenger ships must have an annual inspection of the ship's radio installation and the Commission has no authority to change that requirement. We concluded that it is still the Commission's statutorily-mandated responsibility to ensure that a ship's radio installation is fully operational at the time of inspection and, thus, capable of transmitting and receiving distress messages. We therefore proposed to require that the inspection of all ship radio stations subject to the Communications Act or the Safety Convention be inspected by an FCC-licensed technician.¹³

7. Because of our concern that relying on the use of the private sector not derogate marine safety, and that the Commission is ultimately responsible for guaranteeing that an inspection of a ship's radio station meets the requirements of the Communications Act and the Safety Convention, we requested specific comments about our proposals regarding three general areas; qualifications of FCC-licensed technicians, contracts for small passenger vessels, and Commission oversight of private sector ship inspections.¹⁴

A. Qualifications of FCC-licensed technicians.

8. *Proposal.* We tentatively concluded that FCC-licensed technicians should be permitted to inspect ships and noted that these technicians are licensed by the Commission specifically to repair, maintain, or operate compulsory equipment on board ships. They have demonstrated knowledge of the operational and technical requirements for radiotelephone installations, radiotelegraph installations, and/or GMDSS installations by passing the FCC examinations. The Commission proposed to require specific classes of licenses—listed below—for the inspection of certain categories of ship radio stations.

A. Inspection of cargo vessels or passenger vessels equipped with a radiotelephone installation must be conducted by an FCC-licensed technician holding an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate.

B. Inspection of cargo vessels or passenger vessels equipped with a radiotelegraph installation must be conducted by an FCC-licensed technician holding a Second Class Radiotelegraph Operator's Certificate or First Class Radiotelegraph Operator's Certificate.

C. Inspection of a cargo vessel or a passenger vessel equipped with GMDSS equipment must be conducted by an FCC-licensed technician holding a GMDSS Radio Maintainer's License.¹⁵

¹² *Id.* at ¶ 14.

¹³ *Id.* at ¶ 16.

¹⁴ *Id.* at ¶¶ 16-18.

¹⁵ *Id.* at ¶ 16.

9. *Comments.* We received 19 comments and 2 reply comments in response to the *Notice*.¹⁶ Most commenters supported the Commission's efforts to streamline the inspections of ships and provide faster service to the public.¹⁷ Two commenters opposed the proposal citing concerns about safety as reason not to permit privatization.¹⁸ The Coast Guard supported the Commission's efforts to streamline government regulation and reduce the regulatory burden on the maritime industry.¹⁹ The Coast Guard also requested that we consider aligning the privatization of shipboard inspections to a Quality Management system similar to theirs.²⁰

10. Several commenters argued that the Commission's minimum licensing requirements were not sufficient to ensure that individual ship inspectors can be considered qualified. The American Radio Association (ARA), a labor organization representing radio officers, states that while some FCC-licensed technicians have the competency to conduct shipboard inspections their expertise has been developed through on-the-job training and other experience.²¹ ARA contends that the FCC license cannot be used as a measure of competence because there is no current requirement that a licensee's knowledge be tested and assessed by practical demonstration to obtain an FCC radio (GMDSS) maintainer license.²² Further, ARA states that the International Maritime Organization revised the standards for training and watchkeeping in 1995 to increase the minimum standards for the GMDSS general operators certificate.²³ ARA concludes that the holder of an FCC license has not been trained and may not have the experience to conduct a thorough and accurate radio inspection since that person may not have ever seen a shipboard radio installation.²⁴ ARA states that it is imprudent to consider a person competent to inspect a shipboard GMDSS installation until they have attained the level of experience and training at least equal to that specified in the IMO model training course for the GMDSS maintainer license.²⁵ ARA states that on most U. S. ships the only member of the crew with this expertise is the FCC-licensed ship's radio officer and that the radio officer's competency is not determined by the fact that he or she holds a first or second class radiotelegraph certificate, but rather from experience and training.²⁶

¹⁶ See Attachment A for a complete list.

¹⁷ The comments of the National Marine Electronics Association at 1 and the Passenger Vessel Association at 1 were typical of the supporting comments.

¹⁸ Mr. John D. Hungerford and Mr. Clint Scott Jr. (Hungerford/Scott) at 1.

¹⁹ United States Coast Guard (Coast Guard) comments at 1.

²⁰ *Id.*

²¹ American Radio Association (ARA) comments at 3.

²² *Id.*

²³ ARA comments at 4.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

11. Mackay Marine (Mackay), a marine service company, stated that the Commission's conclusion that FCC-licensed technicians are sufficiently qualified to inspect and certify the proper operation of communication and navigation equipment is incorrect.²⁷ Mackay contends that anyone can get a license without ever boarding a ship and that lack of practical working knowledge of ship's communication and navigation equipment and inspection procedures could lead to an oversight of critical safety items during an inspection.²⁸ Mackay also contends that FCC-licensed technicians may not have access to the test equipment necessary to effect a thorough inspection.²⁹ Mr. John D. Hungerford and Clint Scott Jr. (Hungerford/Scott), both of whom are radio officers, stated that the inspection of the radio equipment used for ship's safety equipment needs to be done by someone who will focus on one issue—safety.³⁰ Mr. Gerhard J. Straub, a registered professional engineer, contends that because individuals holding a first or second class radiotelegraph licenses are permitted to maintain GMDSS equipment they should also be permitted to conduct inspections of GMDSS equipped ships.³¹ Mr. Raymond W. Blackford (Blackford) states that the *Notice* is a good idea that is long overdue, but that it is seriously defective in several respects regarding the qualifications of FCC licensed technicians.³² Blackford states that the present licensing structure does not deal with performance standards, methodology, or quality assurance procedures for carrying out inspections.³³ Blackford suggests several alternatives to the Commission's relying on its licensing procedures, including minimum age and experience requirements, and concludes that privatization is the best thing to do, but that we should maintain standards at least as rigorous as "Flag of Convenience" states and Class Societies.³⁴

12. The United States Coast Guard (Coast Guard)³⁵ states that it fully supports the Commission's efforts to streamline government regulation and reduce the regulatory burden on the maritime industry wherever these efforts are consistent with the maintenance of a high level of safety.³⁶ The Coast Guard notes that it has undertaken a similar delegation for some of its commercial ship inspections—the alternative compliance program (ACP)—and asked that the Commission give due

²⁷ Mackay Marine comments at 2.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Hungerford/Scott at 1.

³¹ Gerhard J. Straub comments at 1.

³² Raymond W. Blackford comments at 1.

³³ *Id.*

³⁴ *Id.* at 2.

³⁵ The Commission requested comments from the Coast Guard in this proceeding because of the Coast Guard's lead in maritime safety.

³⁶ United States Coast Guard (Coast Guard) comments at 1.

consideration to aligning its delegation approach to that chosen by the Coast Guard.³⁷ Additionally, the Coast Guard recommends that the Commission phase-in its proposed delegation.³⁸

13. The Coast Guard also provided specific comments to questions raised in the *Notice*.³⁹ With respect to the qualifications of FCC-licensed technicians, the Coast Guard states that while it supports the minimum licensing requirements proposed it does not appear the prerequisite for licensing incorporates any training or demonstration of qualifications in the actual conduct of safety inspections or in the skills necessary to maintain or operate the equipment.⁴⁰ The Coast Guard recommends that the demonstration of the application of technical knowledge and the attainment and maintenance of inspector qualifications be closely controlled by the FCC.⁴¹

14. Several commenters support our proposal regarding the qualifications of technicians. Sea-Land Service, Inc. (Sea-Land), an operator of U.S. flag container ships, states that the qualifications required for the GMDSS maintainers license ensure that individuals inspecting the ships will have a demonstrated knowledge of the operational and technical requirements of the (radio) installation being inspected and that the system is being properly repaired, maintained and operated. Sea-Land also notes that our proposal brings the ship's Master into the approval process and is a positive step in ensuring continual system availability.⁴² Sea-Land contends that this two party private inspection system will greatly facilitate its operations by ensuring the availability of skilled individuals to conduct the necessary inspections. Sea-Land states that it has experienced problems with FCC inspector availability due to the constraints of tight operating schedules and short port stays and the proposed rules will alleviate that problem.

15. The American Institute of Merchant Shipping, now the United States Chamber of Shipping (USCS), filed comments and reply comments. USCS notes that it represents 20 U.S. based companies which own or operate over ten million deadweight tons of U. S. flag tankers and liners, which USCS stated is a majority of U. S. flag tanker and liner tonnage. USCS contends that the proposed changes will increase the number of experienced entities available to conduct inspections and will allow it increased flexibility in arranging inspections.⁴³ USCS also states that the Masters of ships that it represents will ensure that GMDSS equipment will operate safely before leaving every port and that it is, thus, appropriate that the Master should certify the completion of the annual inspection.⁴⁴ In reply comments, USCS restates its contention that the FCC may rely on annual inspections performed by FCC-

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at Enclosure 1.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Sea-Land Service, Inc. (Sea-Land) comments at 1.

⁴³ United States Chamber of Shipping (USCS) comments at 1.

⁴⁴ *Id.*

licensed technicians holding a GMDSS maintainer license.⁴⁵ USCS contends that if a GMDSS licensed technician is deemed qualified to maintain GMDSS equipment they are qualified to assess the correct operation of the system.⁴⁶ Further, USCS reiterated its position that the shipowner is the final inspector whether the equipment has been inspected by a GMDSS maintainer, installed by a vendor, looked at by a radio officer or even inspected by the FCC.⁴⁷

16. The Passenger Vessel Association (PVA) states that the proposed regulations meet the needs of safety and that the FCC's current licensing system insures that FCC-licensed technicians have adequate knowledge for the inspection activity proposed.⁴⁸ The Sportfishing Association of California, National Party Boat Owners Alliance, Inc., the Golden Gate Fishermen's Association, and Westport Charterboat Association support the proposed rules.⁴⁹ SAC states that the FCC currently requires an FCC-licensed technician to attend inspections to correct problems and it only seems logical to empower the private sector with the authority to inspect.⁵⁰

17. The National Marine Electronics Association (NMEA) states that the proposal to use private sector inspectors enlarges the field of qualified inspectors and permits ship owners and operators to arrange for inspections at their convenience.⁵¹ NMEA notes that because FCC-licensed technicians are called in advance to evaluate the equipment prior to the inspection the vessel's owner will save time and money by having the same person do both jobs.⁵² Further, NMEA states that it has more than 350 members engaged in the marine electronics industry and that about 200 of the members have FCC-licensed technicians working for them. Additionally, NMEA contends that the Commission's proposal will enable these dealerships to increase business and possibly create jobs.⁵³ In response to whether the minimum licensing requirements we have proposed ensure that FCC-licensed technicians are sufficiently qualified, NMEA supports the proposed categories of licenses and states that our proposal will ensure that the technicians are qualified.⁵⁴ NMEA states that it offers a program—the certified marine electronics

⁴⁵ United States Chamber of Shipping (USCS) reply comments at 1.

⁴⁶ *Id.* at 3.

⁴⁷ *Id.*

⁴⁸ Passenger Vessel Association (PVA) comments at 1.

⁴⁹ Sportfishing Association of California (SAC) comments at 1, National Party Boat Owners Alliance, Inc. (NPBOA) comments at 1, the Golden Gate Fishermen's Association (Golden Gate) comments at 1, and Westport Charterboat Association (Westport) comments at 1.

⁵⁰ SAC at 1.

⁵¹ National Marine Electronics Association (NMEA) comments at 1.

⁵² *Id.*

⁵³ *Id.* at 2.

⁵⁴ *Id.*

technician (CMET) program—which certifies that FCC-licensed technicians have practical experience working on marine electronics equipment.⁵⁵

18. *Decision.* Because the Commission's primary objective is preserving safety of life at sea, we have considered all these comments carefully, especially the effects of this change on maritime safety. We conclude that ship safety will not be compromised by permitting FCC-licensed technicians to conduct compulsory ship inspections. Marine service companies currently employ FCC-licensed technicians that conduct preinspections of radio installations, repair faulty radio equipment and install and test new equipment to ensure proper operation. The Coast Guard's and the ARA's observation that the Commission's current licensing process does not require any practical demonstration of technical or operational skills is correct. The Commission, however, has never represented its tests to be a hands-on certification. The tests are, rather, a means to test the knowledge of applicants regarding operational procedures, international and domestic regulations and technical matters. It is our opinion that technicians capable of repairing and maintaining the radio installation of a compulsorily equipped vessel are also fully capable of inspecting it to ensure proper operation.

19. We do agree, however, with commenters concerns, particularly the Coast Guard's, that these inspections are directly related to safety and that the Commission should ensure that private sector inspectors are fully qualified. To that end, the Commission will: 1) provide voluntary training for FCC-licensed technicians at several of its offices;⁵⁶ 2) provide information bulletins regarding ship inspections for cargo vessels and small passenger vessels;⁵⁷ and, 3) will conduct random inspections of U. S. ships to ensure that the ship inspection program is maintained at least at the same level as is currently provided. Additionally, we recommend that the marine industry develop and administer a certification program for technicians involved in the inspection of ship radio installations.

20. We also note that under current practice cargo vessel and passenger vessel operators hire service technicians to conduct a pre-inspection and to attend the FCC inspection and that the costs for the service technician are normally less than the fee that the FCC charges, especially in cases of multiple vessel inspections.⁵⁸ We also note that these technicians often repair faulty equipment during the inspection. We believe that competition will ensure an equitable price for private sector inspections. Therefore, we are not adopting any regulations regarding the permissible fees for the inspection of a Communications Act or Safety Convention ship by the private sector, nor are we adopting any restrictions on making repairs during the inspection. Should a problem with fees arise in the future, we will address the specific facts at that time. Finally, we are requiring that the station logs be retained for two years.

21. Further, we will require two independent certifications that a ship has passed the inspection: one certification from the inspecting technician that the vessel has passed an inspection and another certification from the vessel owner, operator, or ship's master indicating that he or she is satisfied

⁵⁵ *Id* at 3.

⁵⁶ The Commission will announce by Public Notice the dates and arrangements for the training.

⁵⁷ Ship inspection checklists are attached in Appendices D and E. Commission staff have developed a draft GMDSS inspection list and provided it to the maritime community through the RTCM annual assembly meeting in 1997.

⁵⁸ See section 1.1103 of the Commission's rules, 47 C.F.R. § 1.1103, for the FCC charges for ship inspections.

that the inspection was satisfactory. The inspecting technician's certification must be entered in the station log. Further, we are requiring that the inspecting technician provide the vessel operator, prior to the inspection, a copy of his or her FCC license(s) with the FCC serial number clearly discernable. Additionally, we are providing a procedure for the vessel operator, owner or the ship's master to protest a particular failed inspection and for the inspecting technician to report safety related problems to the Commission. Because the certification that a ship has passed an inspection relates directly to safety and is critical to the vessel's ability to transmit a distress call in the event of an emergency, the Commission will take appropriate enforcement action against any inspecting technician or vessel owner, operator or ship's master that falsely certifies that a vessel has passed an inspection. Further, we will take immediate and appropriate action against any vessel operator, vessel owner or ship's master who operates a vessel with an expired or invalid certificate.

22. We also conclude that a critical component of this ship inspection program is that the inspectors be independent of the vessel owners and operators in order to maintain the program's integrity. We are, therefore, requiring that the vessel's owner, operator, master, or employees or their affiliates not be permitted to conduct the required inspections. Additionally, we adopt rules that will permit the FCC-licensed inspector to issue a certificate on behalf of the United States and that such certificate will satisfy the requirements of both the Communications Act and the Safety Convention.

23. In conclusion, the Commission is adopting rules that require the use of FCC-licensed inspectors to conduct inspections of compulsorily equipped vessels. We are additionally permitting FCC-licensed technicians to conduct bridge-to-bridge inspections at the same time as the Safety convention and Communications Act inspections.⁵⁹ We conclude that private sector technicians that hold at least one of the following FCC licenses are qualified to inspect the following classes of ship radio installations.

CATEGORY OF VESSEL	MINIMUM CLASS OF FCC LICENSE REQUIRED BY PRIVATE SECTOR TECHNICIAN TO CONDUCT INSPECTION—ONLY ONE LICENSE REQUIRED			
	General Radio- telephone Operator License	GMDSS Radio Maintainer's License	Second Class Radiotelegraph Operator's Certificate	First Class Radiotelegraph Operator's Certificate
Radiotelephone equipped vessels subject to subpart R, S or U of Part 80, 47 C.F.R. Part 80.	✓	✓	✓	✓
Radiotelegraph equipped vessels subject to subpart Q of Part 80, 47 C.F.R. Part 80.			✓	✓
GMDSS equipped vessels subject to subpart W of Part 80, 47 C.F.R. Part 80.		✓		

B. Contracts for small passenger vessels.

24. The 1996 Telecommunications Act amended Section 385 of the Communications Act of 1934 to permit the Commission to enter into contracts with any person for the purpose of carrying out inspections of small passenger vessels. We tentatively concluded in the *Notice* that small passenger vessels should be permitted to arrange inspections without Commission intervention and requested comments on our proposed rules to permit small passenger vessels to arrange inspections with FCC-licensed technicians. PVA, NMEA and Paradise Cruise Limited (Paradise) stated that the FCC did not need to enter into contracts with FCC-licensed technicians.⁶⁰ The Coast Guard stated that the Commission should enter into contracts with FCC-licensed technicians to conduct inspections of small passenger vessels. The Coast Guard conditioned their support based on the Commission providing adequate qualification standards and maintaining oversight. Additionally, they stated that the Commission should ensure that there is no decrease from the effectiveness of the current ship radio installation inspections

⁵⁹ The Bridge-To-Bridge Act requires, *inter alia*, that all U. S. vessels subject to the Communications Act, Safety Convention or the Great Lakes Agreement have a bridge-to-bridge radio installation. We require this radio installation to be inspected at the same time as the regular inspection. See §§ 80.1001, *et seq.*

⁶⁰ Paradise Cruise, Ltd at 1; NMEA comments at 2; PVA comments at 1.

conducted by the FCC.⁶¹ In reply comments PVA contends that the Coast Guard's suggestion to use its ACP for the inspection of vessels is more appropriate to a proposal to delegate broad agency responsibility, not for specific ship radio inspection program.⁶² Additionally, PVA states that vessel operators are dealing with equipment that is not susceptible to the kinds of problems for which on-site inspections were originally established.⁶³

25. *Decision.* We will not require small passenger vessels to enter into a contract with the Commission to arrange for an inspection. We agree with PVA's reply that the FCC inspection procedure relies on vessel operators to repair or replace defective equipment.⁶⁴ We note that Commission inspectors conduct an extensive inspection of the ship's radio installation at the time of inspection and have relied on the vessel operator maintaining the ship's radio installation in the same condition during the period that the Certificate is valid. We agree, however, with the Coast Guard's concerns regarding small passenger vessel safety. Therefore, as with the inspection of cargo vessels, we will require two independent certifications that a ship has passed the inspection: one certification from the inspecting technician that the vessel has passed an inspection and another certification from the vessel owner, operator, or ship's master indicating that he or she is satisfied that the inspection was satisfactory.

C. Other.

26. *Compliance.* In informal comments, field agents and representatives from the maritime community⁶⁵ have requested clarification regarding the procedure to follow in the event a compulsory ship fails an inspection. For example, can the owners of a ship that fails an inspection simply hire another inspector? Should the private sector inspector be required to notify the Commission that a vessel has failed an inspection? The Commission's Rules have not previously contained specific rules addressing what to do if a ship fails an inspection. There are two reasons for this: 1) the inspections were conducted by Commission employees; and, 2) cargo and passenger ships are prohibited from leaving port unless they are equipped with an operational radio installation.⁶⁶

27. We agree, however, that it is necessary to ensure that the radio installation is operational and has passed an inspection. As noted above, we are adopting rules that require the inspecting technician to make log entries when the ship passes an inspection. We are, additionally, adopting rules that: 1) require the inspecting technician to make an entry in the ship's log noting that the ship has failed the inspection; and, 2) require the inspecting technician to notify the ship's master, operator or owner that the

⁶¹ Coast Guard comments, Enclosure (1), at 1.

⁶² PVA reply comments at 2.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Comments and questions regarding compliance were raised at the annual assembly meeting of the Radio Technical Commission for Maritime Services held in St. Petersburg, Florida April 28 to May 2, 1997, and at the annual assembly meeting of the National Marine Electronics Association held in Las Vegas, Nevada September 27-30, 1997.

⁶⁶ See Sections 351(a)(1) and 381 of the Communications Act, 47 U.S.C. §§ 351(a)(1), 381.

ship has failed the inspection. Further, we note that the Communications Act requires vessels to have an operational radio installation prior to leaving port, and are thus prohibited from leaving port until the ship passes an inspection.⁶⁷ Ship owners may use different inspectors, but must ensure that the ship has an operational radio installation prior to leaving port. Commission investigators will review these ship logs during random inspections. Further, the Coast Guard checks for a valid safety certificate during its inspection of such vessels. We believe that these steps will ensure compliance with the Commission's requirements. However, because such inspections are intended to ensure the availability of communications capability during a distress situation we have taken two additional steps: 1) the FCC's national call center (NCC) will forward any reports of fraudulent inspections or violations of the Communications Act or the Commission's Rules related to ship inspections directly to the appropriate FCC field office; 2) we are amending the rules to provide a warning that we will vigorously enforce this requirement. We decline, at this time, to require the technician to notify the Commission that a ship has failed the inspection.

28. *Ship overtime and application for ship inspection.* The Communications Act and Commission's rules contain instructions regarding the payment of ship overtime and the Commission maintains a form, Form 808, detailing the payment of such overtime.⁶⁸ Because it is unlikely that the Commission will be conducting random ship inspections at times other than normal working hours, we are eliminating references to this form in the rules. Additionally, the Commission's rules contain instructions regarding the procedure to follow when requesting the Commission to inspect a ship and the Commission maintains a form, Form 801, detailing the procedure for requesting an inspection. Because it is unlikely that Commission will be conducting ship inspections, other than random ship inspections, we are eliminating this section of the rules and the form.⁶⁹

29. *Waiver of Communications Act certification.* The Communications Act requires that U. S. ships subject to the inspection requirements of the Communications Act must have their radio installation inspected annually by the Commission or an entity designated by the Commission.⁷⁰ Section 362 previously, did not provide relief from this inspection requirement for ships engaged on extended international voyages. This section also previously authorized the Commission to waive the inspection for a period not to exceed thirty days from the time a ship first arrives at a U.S. port from a foreign port. The Commission granted such waivers for the sole purpose of enabling a ship to proceed from a port where there were no available inspectors to another U.S. port where the inspection could be held. In the Telecommunications Act of 1996, Congress provided relief from the inspection requirement for U. S. ships that operate on extended voyages outside the jurisdiction of the U. S. and have a Safety Convention inspection. Congress additionally extended the period of time that the Commission can extend the Communications Act certification to 90 days.⁷¹

⁶⁷ See Sections 351 and 381 of the Communications Act, 47 U.S.C. §§ 351, 381.

⁶⁸ See, respectively, section 80.59(e) of the Commission's Rules, 47 C.F.R. § 80.59(e), and section 4(f)(3) of the Communications Act, 47 U.S.C. § 154(f)(3).

⁶⁹ See, section 80.59(a) of the Commission's Rules, 47 C.F.R. § 80.59(a).

⁷⁰ See Section 362(b) of the Communications Act, 47 U.S.C. § 360(b).

⁷¹ Pub. L. No. 104-104, 110 Stat. 56 (1996) (The "1996 Act").

30. We have incorporated these amendments into our rules. The amendments permit the Commission to grant a ninety day waiver of the annual inspection requirement to ships traveling from one U.S. port to another or operating in remote ports when Commission inspectors or entities designated by the Commission are not able to inspect the vessel, and waive the annual inspection entirely for a U.S. vessel that operates in waters outside the jurisdiction of the U.S. if the vessel complies with the Safety Convention. Currently, U.S. vessels that operate in foreign trade and comply with the Safety Convention requirements for radio equipment but do not return to the U.S. within 12 months are unable to obtain the annual Commission inspection required under the existing section of the Act.

IV. CONCLUSION

31. We believe that an essential component of effective government is to preserve maritime safety while being responsive to user needs. Thus, we adopt rules in this proceeding to promote flexibility, to improve our inspection process by increasing the number of experienced entities available to inspect ship radio stations and permitting ship owners and operators to arrange for inspections at any time or place and, most importantly, to ensure that vessel safety is not adversely affected by these changes. We believe that it is both necessary and timely to change the policies, rules and procedures that the Commission uses to regulate the inspection of ship radio stations.

V. PROCEDURAL MATTERS

32. Section 1.412(c) of the Commission's Rules, 47 C.F.R. § 1.412(c), provides that rule changes may be adopted without prior notice where the Commission for good cause finds that notice and comment procedures are unnecessary and contrary to the public interest, so long as the basis for the good cause finding is published with the rule changes. Section 1.412(c) of the Rules reflects the requirements contained in the Administrative Procedure Act (APA), 5 U.S.C. § 553(b)(B).

33. We find that a notice and comment rulemaking proceeding in the matter of amending the requirement that U.S. vessels arrange for an inspection by the FCC or an entity designated by the FCC while on extended international voyages is unnecessary and would be contrary to the public interest. This change to our rules merely eliminates an unnecessary, duplicative radio inspection requirement for compulsory vessels, as mandated by Congress in a recent amendment to the Communications Act. As noted in the discussion above, the safety of a U.S. ship will not be compromised by this rule amendment and will remove a purely bureaucratic requirement. Further, this rule amendment does not constitute a burden to compulsory vessels, nor does it add to the burdens already imposed by the Commission. Accordingly, we conclude that, in accordance with the APA, these changes may be adopted without notice and comment.

34. *Paperwork Reduction Act of 1995 Analysis.* The requirements proposed in the Notice and adopted in the Report and Order have been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and found to impose new or modified information collection requirements on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget ("OMB") as prescribed by the 1995 Act. The Commission as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collections contained in this Report and Order as required by the 1995 Act.⁷² OMB

⁷² Pub. L. No. 104-13.

comments are due 60 days from date of publication of this Report and Order in the Federal Register. Comments should address (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

35. Written comment by the public on the proposed and/or modified information collections are due on or before 30 days after publication of the Report and Order in the Federal Register. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after publication of the Second Report and Order in the Federal Register. A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov. For additional information concerning the information collections contained herein contact Judy Boley at 202-418-0214 or via the Internet at jboley@fcc.gov.

36. The analysis pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. Section 608, is contained in Appendix B.

VI. ORDERING CLAUSES

37. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 1, 4(i) and (o), 303 (r), 624 (g), and 706 of the Communications Act of 1934, as amended, 47 U.S. C. Sections 151, 154(i) and (o), 303 (r), 544 (g), and 606, that Parts 0, 1 and 80 of the Commission's Rules, 47 C.F.R. Parts 0, 1 and 80, ARE AMENDED as set forth in ATTACHMENT C.

38. IT IS FURTHER ORDERED that the provisions in this Report and Order will be effective 30 days after publication in the FEDERAL REGISTER.

39. IT IS FURTHER ORDERED that a copy of this Report and Order shall be sent to the United States Coast Guard.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

Attachments

ATTACHMENT A

Commenters

- 1) American Radio Association (ARA)
- 2) Stanley Blumenthal (Blumenthal)
- 3) United States Coast Guard (Coast Guard)
- 4) Energy Transportation Corporation (ETC)
- 5) Golden Gate Fishermen's Association (GGFA)
- 6) John D. Hungerford/Clint Scott Jr. (Hungerford/Scott)
- 7) Mackay Marine (Mackay)
- 8) National Party Boat Owners Alliance, Inc. (NPBOA)
- 9) National Marine Electronics Association (NMEA)
- 10) Paradise Cruise, Ltd. (Paradise)
- 11) Passenger Vessel Association (PVA)
- 12) The Honorable Jim Saxton, United States Congressman
- 13) Raymond W. Blackford (Blackford)
- 14) Sea-Land Service, Inc. (Sea-Land)
- 15) Sportfishing Association of California (SAC)
- 16) Gerhard J. Straub, P.E. (Straub)
- 17) Westport Charterboat Association (Westport)
- 18) AAT Communications Systems Corporation
- 19) American Institute of Merchant Shipping (AIMS)

Reply Comments

- 1) Passenger Vessel Association
- 2) United States Chamber of Shipping (USCS) formerly known as the American Institute of Shipping (AIMS)

ATTACHMENT B

FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making (Notice)* in this proceeding. The Commission sought written public comments on the proposals in the *Notice* including the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. No. 104-121, 110 Stat. 847 (1996).⁷³ No commenters addressed the proposals in the Initial Regulatory Flexibility Act Analysis.

I. Need For and Purpose of this Action:

2. This proceeding was initiated to incorporate changes to the Communications Act related to the inspection of ships, to explore ways to improve the Commission's ship inspection process, to reduce administrative burdens on the public and the Commission, and to ensure that vessel safety is not adversely affected. Currently, the Commission inspects the radio installations of approximately 1,100 vessels each year. The adopted rules will replace the requirement that the Commission inspect such ships with a requirement that ship owners or operators arrange for an inspection by an FCC-licensed technician. These changes will result in the following benefits:

- Increase the number of experienced entities available to inspect the radio stations of ships.
- Permit ship owners and operators to arrange for inspections at any time or place.
- Privatization should not adversely affect safety. We are adopting rules that will require two separate certifications that the ship has passed the safety inspection. Additionally, we are incorporating the suggestions of the U. S. Coast Guard to continue to inspect a sample of U. S. ships.
- It will also decrease administrative burdens on the Commission by shifting the responsibility to arrange ship inspections from the Commission to ship owners or operators.

⁷³ Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 *et seq.*

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA):

3. No comments were filed in direct response to the IRFA. Several commenters argued that the Commission's minimum licensing requirements were not sufficient to ensure that individual ship inspectors can be considered qualified. Comments by the American Radio Association (ARA), a labor organization representing radio officers, were typical. ARA stated that while some FCC-licensed technicians have the competency to conduct shipboard inspections their expertise has been developed through on-the-job training and other experience.⁷⁴ ARA contends that the FCC license cannot be used as a measure of competence because there is no current requirement that a licensee's knowledge is tested and assessed by practical demonstration in order to obtain an FCC radio (GMDSS) maintainer license.⁷⁵

4. The comments of the American Institute of Merchant Shipping, now the United States Chamber of Shipping (USCS), were typical of the comments supporting privatization. USCS contends that the proposed changes will increase the number of experienced entities available to conduct inspections and will allow it increased flexibility in arranging inspections.⁷⁶ USCS also states that the Masters of ships that it represents will ensure that GMDSS equipment will operate safely before leaving every port and that it is, thus, appropriate that the Master should certify the completion of the annual inspection.⁷⁷ USCS noted that the shipowner is the final inspector whether the equipment has been inspected by a GMDSS maintainer, installed by a vendor, looked at by a radio officer or even inspected by the FCC.⁷⁸

5. In general comments, the United States Coast Guard (Coast Guard)⁷⁹ stated that it fully supports the Commission's efforts to streamline government regulation and reduce the regulatory burden on the maritime industry wherever these efforts are consistent with the maintenance of a high level of safety.⁸⁰ The Coast Guard noted that it has undertaken a similar delegation for some of its commercial ship inspections—the alternative compliance program (ACP)—and asked that the Commission give due consideration to aligning its delegation approach to that chosen by the Coast Guard.⁸¹ Additionally, the Coast Guard recommended that the Commission phase-in its proposed delegation.⁸²

⁷⁴ American Radio Association (ARA) comments at 3.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ The Commission requested comments from the Coast Guard in this proceeding because of the Coast Guard's lead in maritime safety.

⁸⁰ United States Coast Guard (Coast Guard) comments at 1.

⁸¹ *Id.*

⁸² *Id.*

6. The Coast Guard also provided specific comments to questions raised in the *Notice*.⁸³ With respect to the qualifications of FCC-licensed technicians, the Coast Guard stated that while it supports the minimum licensing requirements proposed it does not appear the prerequisite for licensing incorporates any training or demonstration of qualifications in the actual conduct of safety inspections or in the skills necessary to maintain or operate the equipment.⁸⁴ The Coast Guard recommended that the demonstration of the application of technical knowledge and the attainment and maintenance of inspector qualifications should be closely controlled by the FCC.⁸⁵

III. Description and Estimate of Number of Small Businesses to Which Rules Will Apply:

7. The RFA generally defines "small entity" as having the same meaning as the terms "small business", "small organization", and "small governmental jurisdiction" and "the same meaning as the term 'small business concern' under the Small Business Act" unless the Commission has developed one or more definitions that are appropriate for its activities. 15 U.S.C. §632.⁸⁶ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁸⁷ The Small Business Enforcement Act of 1996 (SBREFA) provision of the RFA also applies to nonprofit organizations and to governmental organizations such as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.⁸⁸

8. Based on our most recent information, we estimate that there are approximately 400 large cargo ships and 180 small passenger vessels subject to the radio carriage requirements of the Communications Act and the Safety Convention and approximately 3150 small passenger vessels that are subject only to the Communications Act.⁸⁹ Based on available data, we believe that all of the cargo

⁸³ *Id.* at Enclosure 1.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Regulatory Flexibility Act (RFA), 5 U.S.C. § 601(3)(1980) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

⁸⁷ Small Business Act, 15 U.S.C. § 632 (1996).

⁸⁸ Small Business Enforcement Fairness Act (SBREFA), 15 U.S.C. § 601(5). For example, there are 85,006 governmental entities in the United States of which 37,566 have populations of less than 50,000. United States Dept. of Commerce, Bureau of the Census, *1992 Census of Governments* (1992 Census).

⁸⁹ It should be noted that there are approximately 3,150 small passenger vessels required to have an inspection every five years. The Commission's field offices have scheduled inspections to arrange for an average of 630 ship inspections each year.

vessels are owned by large businesses such as, oil companies, freight transport companies, etc. whose employment and annual receipts exceed the SBA definition of small business. Additionally, we believe that most of the 3,330 small passenger vessels are owned and operated by small business entities—the Commission does not keep records of the size of businesses that operate small passenger vessels. Although we do not have any statistics to base our estimate on, we rely on the anecdotal evidence provided by the Commission's field staff that most small passenger vessels are owned and operated by small businesses with fewer than 500 employees and that small companies own approximately five such vessels. There are, thus, approximately 666 small businesses to which the new rules will apply.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:

9. U. S. ships subject to the Communications Act or the Safety Convention are currently required to keep station logs and to, *inter alia*, make entries in those logs regarding watchkeeping and safety related communications. Such ships are also required to post a copy of a safety certificate providing evidence that the ship has been inspected and meets all of the relevant requirements. This Report and Order requires: 1) that the inspecting technician issue a safety certificate; and, 2) that the inspecting technician and the ship's owner, operator, or the ship's master certify in the ship's log that the ship has passed an inspection. It also requires the inspecting technician to make a log entry that the ship has not passed an inspection.

V. Significant Alternatives and Steps Taken by Agency to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives:

10. When we began this proceeding we noted that the Commission's primary objective is ensuring safety of life and property at sea. However, because the Commission has closed several offices that conduct ship inspections, we note that ship operators could be better served by the private sector as an alternative to Commission employees conducting inspections. The Commission noted that marine service companies currently provide technicians that conduct preinspections of radio installations in conjunction with Commission inspectors and repair any malfunctions found during the inspection.

11. The Commission is adopting rules that will require ship operators to arrange for an inspection by an FCC-licensed technician in lieu of FCC inspectors. This rule amendment should provide more inspectors to conduct such inspections than the Commission currently has and will, thus, provide competition to ship inspection service providers and reduce the costs to ship operators while increasing the availability of inspectors. It will, additionally, provide better access to ship inspectors at remote ports where the Commission does not have offices and provide ship operators with more flexibility to arrange for inspections of ships through increased numbers of private sector organizations.

12. The Commission rejected requiring small passenger vessel operators—the only small entities affected by this proceeding—to enter into a contract with an inspection company as being unnecessary and too bureaucratic. The Commission rejected the possibility of continuing to inspect such vessels itself as being too onerous and not in the public interest. We believe that owners of small passenger vessels will benefit from competition amongst companies providing ship inspection services. The Commission charges a flat fee of \$390 per vessel to inspect small passenger vessels irrespective of whether the inspection takes 15 minutes or 15 hours, or whether there is only one vessel or six. Private sector companies will be able to discount multiple inspections and charge an hourly rate for ship inspections.

VI. Commission's Outreach Efforts to Learn of and Respond to the Views of Small entities pursuant to SBREFA 5 U.S.C. §609:

Report to Congress: The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of the FRFA will also be published in the Federal Register.

ATTACHMENT C**RULES**

Chapter I of Title 47 of the Code of Federal Regulations, Parts 0, 1 and 80 are amended as follows:

I. PART 0—COMMISSION ORGANIZATION

The authority citation for Part 0 continues to read as follows:

AUTHORITY: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

Section 0.311 is amended by renumbering existing paragraph (a) as (a)(1) and adding a new paragraph (a)(2) to read as follows:

COMPLIANCE AND INFORMATION BUREAU**§ 0.311 Authority delegated.**

* * * * *

(a)(1) * * *

(a)(2) The Chief of the Compliance and Information Bureau is authorized to rely on reports, documents, or log entries made by the holder of an FCC license or Certificate—detailed in § 80.59—as certification that a U.S. vessel required to be equipped with a radio installation and inspected by the Commission or an entity designated by the Commission, under the Safety Convention or subparts Q, R, S, U, or W of part 80 of this chapter meets such inspection requirements. The Chief, Compliance and Information Bureau is further authorized to delegate this authority.

1. Section 0.314 is amended by revising paragraphs (e)(1) and (j) to read as follows:

§ 0.314 Additional authority delegated.

* * * * *

(e)(1) For periodic survey as required by section 385 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and issuance of Communications Act radiotelephony certificates in accordance with § 80.903 of this chapter. The District Director or Resident Agent will require that the inspection be conducted by an FCC-licensed technician holding an appropriate class of FCC license in accordance with § 80.59 of this chapter.

(j) For ship radio inspection and certification of the ship radio license, pursuant to the requirements of Section 362(b) and 385 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. The District Director or Resident Agent will require that the inspection be conducted by an FCC-licensed technician holding an appropriate class of FCC license in accordance with § 80.59 of this chapter.

* * * * *

II. Part 1 - PRACTICE AND PROCEDURE

2. The authority citation for Part 1 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154, 207, 303 AND 309(j) unless otherwise noted.

3. Section 1.1103 is amended by replacing "801" under the header titled Form No. with "159 and correspondence."

III. Part 80 - Stations in the Maritime Services

4. The authority citation for Part 80 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

5. Section 80.5 is amended by revising two definitions and adding a new definition to read as follows:

§ 80.5 Definitions.

* * *

Cargo ship safety radiotelegraphy certificate. A certificate issued after a ship passes an inspection of a radiotelegraph installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Cargo ship safety radiotelephony certificate. A certificate issued after a ship passes an inspection of a radiotelephone installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Cargo ship safety radio certificate. A certificate issued after a ship passes an inspection of the required radiotelegraph, radiotelephone or GMDSS radio installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

6. Section 80.19 is amended by removing the entry "Radio inspection and certification" under the column titled—Application for—and removing the entry and footnote "FCC Form 801." under the column titled—Use.

7. Section 80.59 is amended by revising paragraphs (a), (a)(1), (a)(2), adding new paragraphs (a)(3), (a)(4), and (a)(5) revising paragraphs (d), (d)(1), (d)(1)(v), adding a new paragraph (d)(2) and amending paragraph (e) to read as follows:

§ 80.59 Compulsory ship inspections.

(a) *Inspection of ships subject to the Communications Act or the Safety Convention.* (1) The FCC will not normally conduct the required inspections of ships subject to the inspection requirements of the Communications Act or the Safety Convention. NOTE: nothing in this section prohibits Commission inspectors from inspecting ships. The mandatory inspection of U. S. vessels must be conducted by an FCC-licensed technician holding an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate in accordance with the following table:

CATEGORY OF VESSEL	MINIMUM CLASS OF FCC LICENSE REQUIRED BY PRIVATE SECTOR TECHNICIAN TO CONDUCT INSPECTION—ONLY ONE LICENSE REQUIRED			
	General Radiotelephone Operator License	GMDSS Radio Maintainer's License	Second Class Radiotelegraph Operator's Certificate	First Class Radiotelegraph Operator's Certificate
Radiotelephone equipped vessels subject to 47 C.F.R. subpart R or S	✓	✓	✓	✓
Radiotelegraph equipped vessels subject to 47 C.F.R. subpart Q			✓	✓
GMDSS equipped vessels subject to 47 C.F.R. subpart W or subpart Q		✓		

(2) A certification that the ship has passed an inspection must be entered into the ship's log by the inspecting technician. The technician conducting the inspection and providing the certification must not be the vessel's owner, operator, master, or employee or their affiliates. Additionally, the vessel owner, operator, or ship's master must certify in the station log that the inspection was satisfactory. There are no FCC prior notice requirements for any inspection pursuant to § 80.59(a)(1). An inspection of the bridge-to-bridge radio stations on board vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act must be conducted by the same FCC-licensed technician.

(3) Additionally, for passenger vessels operated on an international voyage the inspecting technician must send a completed FCC Form 806 to the Officer in Charge, Marine Safety Office, United States Coast Guard in the Marine Inspection Zone in which the ship is inspected.

(4) In the event that a ship fails to pass an inspection the inspecting technician must make a log entry detailing the reason that the ship did not pass the inspection. Additionally, the technician must notify the vessel owner, operator, or ship's master that the vessel has failed the inspection.

(5) Because such inspections are intended to ensure the availability of communications capability during a distress the Commission will vigorously investigate reports of fraudulent inspections, or violations of the Communications Act or the Commission's Rules related to ship inspections. FCC-licensed technicians, ship owners or operators should report such violations to the Commission through its National Call Center at 1-888-CALL FCC (1-888-225-5322).

(b) * * *

(d) *Waiver of annual inspection.*

(1) The Commission may, upon a finding that the public interest would be served, grant a waiver of the annual inspection required by Section 362(b) of the Communications Act, 47 U.S.C. § 360(b), for a period of not more than 90 days for the sole purpose of enabling a United States vessel to complete its voyage and proceed to a port in the United States where an inspection can be held. An informal application must be submitted by the ship's owner, operator or authorized agent. The application must be submitted to the Commission's District Director or Resident Agent in charge of the FCC office nearest the port of arrival at least three days before the ship's arrival. The application must include:

(i) * * *

(v) The reason why an FCC-licensed technician could not perform the inspection; and

(vi) * * *

(2) Vessels that are navigated on voyages outside of the United States for more than 12 months in succession are exempted from annual inspection required by section 362(b) of the Communications Act, provided that the vessels comply with all applicable requirements of the Safety Convention, including the annual inspection required by Regulation 9, Chapter I, and the vessel is inspected by an FCC-licensed technician in accordance with § 80.59 within 30 days of arriving in the United States.

8. Section 80.101 is amended by revising the fourth sentence in paragraph (b) to read as follows:

§ 80.101 Radiotelephone testing procedure.

* * * * *

(b) * * * U. S. Coast Guard stations may be contacted on 2182 kHz or 156.800 MHz for test purposes only when tests are being conducted by Commission employees, when FCC-licensed technicians are conducting inspections on behalf of the Commission, when qualified technicians are installing or repairing radiotelephone equipment, or when qualified ship's personnel conduct an operational check requested by the U. S. Coast Guard. * * *

9. Section 80.409 is amended by revising paragraphs (b)(1) and (f)(1) and adding paragraphs (f)(1)(i)-(vi) to read as follows:

§ 80.409 Station logs.

* * * * *

(b) * * *

(1) Logs must be retained by the licensee for a period of two years from the date of entry, and, when applicable, for such additional periods as required by the following paragraphs:

(i) * * *

(f) * * *

(1) Radiotelephony stations subject to the Communications Act, the Safety Convention, or the Bridge-to-Bridge Act must record entries indicated by paragraphs (e)(1) through (e)(12) of this section. Additionally, the radiotelephone log must provide an easily identifiable, separate section relating to the required inspection of the ship's radio station. Entries must be made in this section giving at least the following information.

(i) For ships that pass the inspection:

(A) The date the inspection was conducted.

(B) The date by which the next inspection needs to be completed.

(C) The inspector's printed name, address and class of FCC license (including the serial number).

(D) The results of the inspection, including any repairs made.

(E) The inspector's signed and dated certification that the vessel meets the requirements of the Communications Act and, if applicable, the Safety Convention and the Bridge-to-Bridge Act contained in subparts Q, R, S, U, or W of this part and has successfully passed the inspection.

(F) The vessel owner, operator, or ship's master's certification that the inspection was satisfactory.

(ii) For ships that fail the inspection:

(A) The date the inspection was conducted.

(B) The inspector's printed name, address and class of FCC license (including the serial number).

(C) The reason that the ship did not pass the inspection.

(D) The date and time that the ship's owner, operator or master was notified that the ship failed the inspection.